



INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-835

CERTAIN FOOD CONTAINERS, CUPS, PLATES, CUTLERY, AND RELATED ITEMS AND PACKAGING THEREOF

COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION GRANTING A JOINT MOTION TO TERMINATE THE INVESTIGATION AS TO RESPONDENTS ON THE BASIS OF A SETTLEMENT AGREEMENT; TERMINATION OF INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 11) granting a joint motion to terminate the above-captioned investigation as to Respondents Trans World International (New York), Inc., Green Wave International, Inc., and John Calarese & Co. (collectively, the "Green Wave Respondents") on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3041. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are

advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 6, 2012, based on a complaint filed by Fabri-Kal Corporation of Kalamazoo, Michigan ("Fabri-Kal"). *77 Fed. Reg.* 20846 (April 6, 2012). The complaint, as supplemented, alleged violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain food containers, cups, plates, cutlery, and related items and packaging thereof by reason of infringement of U.S. Trademark Registration No. 3,021,945. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainant requested that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders. The notice of investigation named the following companies as respondents: Green Wave International Inc., Brooklyn, NY; Trans World International (New York), Inc., Brooklyn, NY; John Calarese & Co., Inc., Medway, MA; and Eco Greenwares, Fremont, CA.

On October 25, 2012, Fabri-Kal and the Green Wave Respondents filed a joint motion to terminate the investigation as to the Green Wave Respondents on the basis of a settlement agreement. Commission staff filed a response in support of the motion on November 5, 2012.

On November 14, 2012, the ALJ issued the subject ID, granting the joint motion to terminate the Green Wave Respondents from the investigation. The ALJ found that the settlement agreement complies with the requirements of Commission Rule 210.21(b) (19 C.F.R. §210.21(b)) and that terminating the Green Wave Respondents from the investigation would not

be contrary to the public interest. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID and there are no remaining respondents. Accordingly, this investigation is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

Issued: December 14, 2012

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